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MMO Reference: DCO/2019/00005  
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01 August 2024

Dear Richard Allen,

**Planning Act 2008, E.On Climate and Renewables UK Ltd, Proposed Rampion 2 Offshore Wind Farm Order**

#### Deadline 6

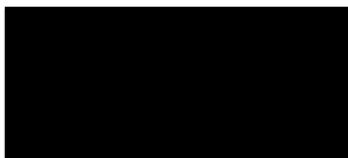
This document comprises the Marine Management Organisation's ("MMO") Principal Areas of Disagreement ("PAD") in respect of the above Development Consent Order application ("DCO Application"), as requested by the Examining Board in the Rule of 9 letter dated 20 September 2023.

This does not include all comments raised within the Relevant Representation but as states the main areas of disagreement.

The MMO has created two tables one with outstanding comments and one with resolved comments from the earlier submission of the PAD.

Please find the MMO's PAD below.

Yours faithfully,



Ethan Lakeman

Marine Licensing Case Officer

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<b>Table 1 – Outstanding Principal Areas of Disagreement</b>			
Area of Concern	Explanation	Remedy Measures	Likelihood of Resolution
Development Consent Order (DCO)/Deemed Marine Licence (DML)			
Draft DCO - Article 5, Benefits of the Order	<p>Any reference to the Marine Management Organisation (MMO) and Deemed Marine Licence (DML) should be removed from article for transfer of the benefit of the Deemed Consent Order (DCO). This also relates to Part 1 (7).</p> <p>The MMO attended ISH2 with King's Counsel to make an oral representation on Article 5. The MMO has not received the level of discussion and cooperation it hoped for from the Applicant.</p> <p>DL6: Please see our final comments in Section 3 of our Deadline 6 response.</p>	<p>MMO requests removing reference to the MMO in the rest of Article 5 because this transfer process should exclude the DML. However, there may be transfers which relate to the exercise of the MMO's power beyond the deeming of the marine licence. If this is the case, MMO should be consulted, and this should be set out by the Applicant.</p> <p>DL6: The MMO notes the Applicant has made some changes as suggested by the Examining Authority (ExA) (REP05-12) but is still contesting some amendments.</p>	This is still outstanding and the MMO considers this a material issue.
Draft DCO – Schedules 11 & 12 Condition 12	MMO notes submission of documents and determination date is 4 months. Due to the nature of the documents and larger scale project the MMO requests these are updated to 6 months.	<p>MMO requests that determination dates are updated to 6 months not 4 months.</p> <p>DL6: The Applicant has updated the plans listed below to have a 6 month approval period.</p> <ul style="list-style-type: none"> <li>- Project Environmental Management Plan; -</li> <li>- Sensitive Features Mitigation Plan; and -</li> <li>- Offshore Monitoring Plan;</li> </ul>	The MMO still requests that all deadlines should be 6 months however, welcomes the Applicant's updates to certain documents.

		Other plans listed in Condition 11(1) of the dMLs, Schedule 11 and 12 of the Draft DCO [REP4-004], have maintained a 4 month review period.	
Draft DCO – Schedules 11 & 12 – Additional Conditions – seasonal restrictions	<p>MMO requests additional conditions to be included in the DML for any seasonal restriction for mitigation.</p> <p>The MMO have requested that seasonal restrictions be included within the DML's as stand-alone conditions. These include seasonal piling restrictions for Herring and Black Sea bream. These have not been incorporated into the DMLs.</p>	<p>MMO requests additional conditions are included within the DMLs.</p> <p>The Applicant has taken this request to discuss internally.</p> <p>DL6: Seasonal restrictions have still not been included in the DML.</p>	This is still outstanding and the MMO considers this a material issue.
Draft DCO – Condition 9: <i>(1) Unless otherwise agreed in writing by the MMO all chemicals used in the construction of the authorised project must be selected from the List of Notified Chemicals approved for use by the offshore oil and gas industry under the Offshore Chemicals Regulations 2002(a) (as amended).</i>	<p>Although the condition used by the Applicant has been used previously. This is a fundamental change to this process due to the ability to access the offshore chemical regulations 2002(a). The Chemicals on this list have been modelled using oil and gas structures and the use of these chemicals in offshore wind is different and require further review. This drafted condition will be the condition used by the MMO for future OWF projects and should be updated accordingly.</p> <p>We encourage the applicant to engage early with the MMO when seeking to discharge this condition.</p> <p>DL6: The MMO proposed the follow new condition wording in our Deadline 6 Response:</p>	<p>04/07/2024 MMO sent the new condition following the page turn meeting for inclusion in the DCO which the Applicant is now considering. This condition included eight weeks.</p> <p>DL6: The MMO did not receive confirmation or an update from the Applicant during examination and is unsure if this has been taken into account in the final DCO submitted by the Applicant at DL6. An amendment to ten weeks, with the proposed agreement with the MMO has been updated since this meeting. This was not shared with the Applicant in time to be included in their Deadline 6 response. The reason for these changes are because eight weeks is the time Cefas require to review and</p>	<p>This issue is still outstanding if the condition is not in the DCO submitted at DL6. This is classed as a material issue.</p> <p>The matter is closed if this has been included.</p>

	<p>Schedule 11 &amp; 12, Part 2, Condition 9 (1):  The MMO requests that Condition 9 (1) is removed and replaced with the following condition <i>“Unless otherwise agreed in writing by the MMO, all chemicals and substances, including paints and coatings, used below MHWS for the undertaking of the licensed activities must be approved in writing by the MMO prior to use. Submission for approval to the MMO must take place no later than ten weeks prior to use, unless otherwise agreed by the MMO in writing.”</i></p>	<p>provide comments, the additional two weeks are to ensure the internal consultation process can be followed.</p>	
<p>Coastal Processes</p>			
<p>Chapter 4 and Appendix 6.3</p>	<p>Clarification is needed on that Horizontal Directional Drilling (HDD) drilling fluid is non-toxic. There should be a principal requirement that the drilling fluid used is benign and non-toxic.</p> <p>Commitment C-227 indicates that HDD will use bentonite clay mix for HDD, and the drilling fluid assessment also indicates a benign water-bentonite mixture.</p> <p>An assessment of the risk from drilling fluid loss, hydraulic fracture or inadvertent drilling return, should also be provided to ensure a worst-case scenario is assessed.</p> <p>With the update of condition 9(1) below the MMO would consider this matter closed.</p> <p>Schedule 11 &amp; 12, Part 2, Condition 9 (1):</p>	<p>04/07/2024 MMO sent the new condition following the page turn meeting for inclusion in the DCO which the Applicant is now considering.</p> <p>DL6: The MMO did not receive confirmation or an update from the Applicant during examination and is unsure if this has been taken into account in the final DCO submitted by the Applicant at DL6.</p>	<p>This issue is still outstanding if the condition is not in the DCO submitted at DL6. The Matter is closed if this has been included.</p>

	<p>The MMO requests that Condition 9 (1) is removed and replaced with the following condition <i>“Unless otherwise agreed in writing by the MMO, all chemicals and substances, including paints and coatings, used below MHWS for the undertaking of the licensed activities must be approved in writing by the MMO prior to use. Submission for approval to the MMO must take place no later than ten weeks prior to use.”</i></p>		
Fish Ecology			
<p>Habitat suitability assessments including Herring and Sandeel mapping</p>	<p>Whilst the applicant has completed a herring potential spawning habitat and Sandeel potential habitat suitability assessment following the MarineSpace (2013a) and (2013b) methodologies, further updates are required to ensure the maps generated make use of the most suitable and up to date information available as per MMO recommendations. The MMO acknowledges that the Applicant provided new heat maps at both Deadline 1 and Deadline 4, respectively. However, the Applicant has not followed the recommended methodologies requested.</p> <p>Please see Section 5.7 and 8.3 of our DL6 response.</p>	<p>MMO requests that the Applicant revises their habitat suitability assessments by following the MarineSpace (2013a and 2013b) methods and provides ‘heat’ maps of herring potential spawning habitat, and sandeel potential habitat, for the fish ecology study area as an addendum to the ES and update the conclusion from this information.</p> <p>DL6: further information was provided by the Applicant at DL4 however this is still not suitable, and more information is required.</p>	<p>This is still outstanding and the MMO considers this a material issue.</p>
<p>Black sea bream UWN disturbance threshold</p>	<p>A threshold approach has been based on a threshold of 141dB re 1µPa SELss as defined by Kastelein et al., (2017). This has</p>	<p>MMO does not consider a SELss of 141 dB re 1 mPa<sup>2</sup> s used for a 44cm captive seabass to be an appropriate or conservative threshold.</p>	<p>This is still outstanding and the MMO considers this a material issue.</p>

	<p>also been used to form the basis of mitigation.</p> <p>The MMO maintain that a behavioural noise threshold of 135 dB is required to protect sensitive features against underwater noise impacts associated with the project.</p> <p>The MMO believes this a fundamental disagreement and no progress forward has been made.</p> <p>Please see Sections 5.7 and 8.1 of our DL6 response.</p>	<p>MMO understands there was no agreement between MMO, Natural England (NE) and the Applicant on a noise threshold or proxy species for black sea bream prior to submission of the Application. The MMO acknowledges the Applicant's provision of additional modelling based on the MMO preferred threshold of 135 dB but acknowledge there is yet to be an agreed threshold between MMO, NE and the Applicant.</p> <p>Agreement will be depended on the provision of information to confirm that proposed noise abatement technologies will be able to achieve the noise reductions indicated by the Applicant.</p> <p>Although information has been provided by the Applicant further updates are still required.</p>	
<p>Mitigation for spawning herring conclusion</p>	<p>The Applicant has provided updated herring spawning maps using the MarineSpace (2013a) and (2013b) methodologies and maintains that there will be impact to spawning herring as there is no overlap between modelled noise contours and the IHLS larval data. The MMO continues to disagree with the use of Coull et al. (1998) spawning maps to predict the presence of adult spawning herring. The MMO have also raised several concerns over the validity of the Applicant's claims due to</p>	<p>Please see Section 5.7 and 8.3 of our DL6 response.</p>	<p>This is still outstanding and the MMO considers this a material issue.</p>

	<p>continuing limitations in the data and methods used in the Applicant's modelling. The MMO is still of the position that a seasonal piling restriction is required to mitigate against noise impacts to spawning herring. The MMO has indicated that we may be willing to revise this position but this will be dependent on the information provided by the Applicant at Deadline 5.</p> <p>Any change to this position will be depended on the Applicant providing the modelling updates requested by the MMO and providing assurance that the Applicant's proposed noise mitigation methods can achieve a minimum 15 dB reduction across the whole project area.</p> <p>The MMO believes this a fundamental disagreement and no progress forward has been made.</p>		
<p>Noise abatement during – exclusion of July</p>	<p>It is not clear why July has been treated separately within the Applicant's proposed mitigation zoning plan. Black sea bream are at their most sensitive when undertaking spawning and guarding their nests, and as a result, the conservation objectives of the Kingmere Marine Conservation Zone (MCZ) are of heightened importance during the spawning period. As we have clear evidence that black sea bream continues to spawn and maintain their nests into and during July, we must consider that July is part of the spawning period.</p>	<p>July should be included in the defined mitigation period for the zoning plan however as above any mitigation must have the correct modelling.</p> <p>DL6: The Applicant maintains their position, that the proposed mitigation measures in July will ensure no hindrance to the conservation objectives of the Kingmere MCZ.</p> <p>Further information has been provided in relation to zoning and mitigation but this is not enough to exclude July.</p>	<p>This is still outstanding and the MMO considers this a material issue.</p>

		Please see Sections 5.6-5.7 and Section 8.1 of our DL6 response.	
Seasonal Piling Restriction	<p>The MMO considers it necessary for a seasonal piling restriction to be implemented in order to prevent disturbance to spawning herring and their eggs and larvae at the Downs spawning ground during the spawning period of 1st November to 31st January (inclusive).</p> <p>The MMO also requests a complete piling restriction for black sea bream from 1st March to 31st July inclusive.</p>	<p>This restriction may be subject to refinement, providing the additional UWN modelling (135dB) and further discussions on mitigation. Any change to this position will be depended on the Applicant providing the modelling updates requested by the MMO and providing assurance that the Applicant's proposed noise mitigation methods can achieve a minimum 15 dB reduction across the whole project area.</p> <p>However, at this time, the MMO considers that a seasonal piling restriction be implemented. Please see Sections 5.6-5.7 and Sections 8.1 &amp; 8.3 of our DL6 response.</p>	This is still outstanding and the MMO considers this a material issue.
Pre- and post-construction surveys	<p>Pre- and post-construction surveys should be implemented to enhance the baseline data and to validate any predictions made in the ES on nesting habitat recoverability. These surveys should be suitably timed and use appropriate methods.</p> <p>The MMO recognises the Applicant has stated there will be underwater noise monitoring at Kingmere MCZ during the black sea bream breeding season, however, the suggested monitoring of the nesting sites has not been included.</p>	The MMO maintains that a requirement for pre- and post-construction monitoring of black bream nesting habitat be included in the DML to ensure that the habitat recovers and continues to support black bream nesting, and that comparisons of nest location and density pre- and post-construction can be made. This should be clearly referred to within conditions 16-18.	This is still outstanding and the MMO considers this has no material impact.



	<p>The MMO understands that Applicant will design the post-construction monitoring and any subsequent years that might be required following the acquisition of pre-construction monitoring data which will be consulted on with the MMO and its advisors.</p>		
<p>Appendix 8.3 Underwater noise study for sea bream disturbance, August 2023.</p>	<p>The MMO agrees that the use of proxy species may be suitable (use of the audiogram for red seabream as a proxy for black seabream in terms of hearing ability), but requires:</p> <p>a) additional evidence for the efficacy of noise abatement measures.</p> <p>The MMO does not agree with the use of seabass as a proxy species and the 141dB threshold used in this report. The MMO continues to have concerns about the predicted efficiency of the Applicant's proposed noise abatement systems.</p> <p>The MMO considers there to be remaining uncertainty around noise abatement reductions. The main outstanding concerns around NAS for the MMO are as follows: The report stated that the achievable overall noise reduction of the proposed DBBC might be slightly decreased by 1-2dB in water depths &gt;40m It is not known where in the array the water depth is &gt;40m, and therefore there is uncertainty as to where a -12 or -14 dB noise reduction</p>	<p>DL6: The Applicant has provided some information. However, this does not alleviate the concerns raised. Please see Sections 5.7 and 8.1 of our DL6 response.</p>	<p>This is still outstanding and the MMO considers this a material issue.</p>

	should be expected relative to sensitive features. e MMO hasve also not seen UWN modelling showing the mitigated UWN contours for a 13dB, 14dB and 15dB noise abatement reduction compared to each other.		
Appendix 8.3 Underwater noise study for sea bream disturbance, August 2023.	<p>The MMO agrees that the use of proxy species may be suitable (use of the audiogram for red seabream as a proxy for black seabream in terms of hearing ability), but requires:</p> <p>b) further (longer term) evidence for the baseline soundscape at Kingmere MCZ</p> <p>While the MMO is satisfied with the underwater noise monitoring data provided, the MMO does not agree with the use of seabass as a proxy species and the 141db threshold used in this report.</p>	<p>DL6: The Applicant has provided some information. However, this does not alleviate the concerns raised.</p> <p>Please see Sections 5.7 and 8.1 XX of our DL6 response.</p>	This is still outstanding and the MMO considers this a material issue.
Appendix 11.3 Underwater noise assessment technical report	The MMO seeks clarifications on a range of issues relating to noise criteria, propagation loss, and comparability of the data from Rampion 1 data with the proposed Rampion 2 predictions within the Appendix.	<p>The Applicant is to provide updates to this document.</p> <p>DL6: The Applicant has updated the document but has not updated all comments.</p> <p>Please see Section 5.7 and Section 5.15 of our DL6 response.</p>	This is still outstanding and the MMO considers this has no material impact.
Under Water Noise			
Permanent Threshold Shift (PTS) onset assessment	There remains disagreement on the sensitivity score for cetaceans and the Permanent Threshold Shift (PTS) significance in the Environmental Statement.	Please see Sections 5.3.4 and Section 5.14 of our DL6 response.	This is still outstanding and the MMO considers this a material issue.

	<p>The MMO acknowledges that the Applicant feels the sensitivity score for cetaceans is appropriate in the ES report. The MMO still requests that cetaceans should be assessed as having a high sensitivity to PTS until the Applicant is able to demonstrate clearly that PTS would have a medium risk.</p> <p>The sensitivity scoring however does not have a major impact on the overall assessment, and the focus should be on ensuring that appropriate mitigation is put in place to reduce the risk of potential impact.</p>		
Dredge and Disposal			
Excavation at the punch out site	<p>The MMO notes that each of the four cables may require excavation at the punch out site. If this material were to contain chalk, then this might cause mounds on the seabed and the impact of chalk rather than silt sand and gravel has not been considered.</p> <p>DL6: The MMO notes that the Applicant has added an additional commitment C-300 to the Outline Scour Protection and Cable Protection Plan, which commits to cable protection with the minimum practicable environmental impact. However, the Outline Scour Protection and Cable Protection Plan does not commit to any of the available choices, so it is not possible for the MMO to comment on how C-300 is met. The MMO is therefore not able to close this until a method is chosen.</p>	The impact of chalk should be further considered in Volume 2 of the ES, Chapter 6: Coastal processes. The Applicant is to provide updates to this document. .	This is still outstanding, but the MMO is content this is not material.

Other Plans and Documents			
Outline Offshore Operations and Maintenance Plan	Please see Sections 5.8.5 – 5.8.13 of our Deadline 4 response (REP4-088). DL6: The previous comments have not been addressed.	Updates are required to this document.  DL6: The Applicant provided updates to this document. Although updates have been made there are still some outstanding issues within Section 5.10 of our DL6 response.	This is still outstanding and the MMO considers this a material issue.
In Principle Sensitive Features Mitigation Plan	Please see Sections 2.5 – 2.7.8 of our Deadline 5 response (REP5-146). DL6: The previous comments have not been addressed.	Updates are required to this document.  DL6: The Applicant provided updates to this document. Although updates have been made there are still some outstanding issues within Sections 5.4-5.7 of our DL6 response.	This is still outstanding and the MMO considers this a material issue.
Offshore In Principle Monitoring Plan	Please see Sections 2.8 – 2.10.8 of our Deadline 5 response (REP5-146). DL6: The previous comments have not been addressed.	Updates are required to this document.  DL6: The Applicant provided updates to this document. Although updates have been made there are still some outstanding issues within Sections 5.8-5.9 of our DL6 response.	This is still outstanding and the MMO considers this a material issue.

<b>Table 2 – Agreed Principal Areas of Disagreement</b>			
Area of Concern	Explanation	Remedy Measures	Likelihood of Resolution
Complaint from commercial fisherman (Sussex Coast)	Grievance with Rampions failure to bury rocks and boulders, leaving 'hundreds of thousands of tons of rocks' being dumped.  DL6: Raised to highlight external concern.	Removal of these rocks from original application and a written agreement (FLO) that this will not occur in Rampion 2.  DL6: This has been resolved as any disposal should be discussed in post consent plans and through the Fisheries liaison plan.	This has been resolved within Examination.
Development Consent Order (DCO)/Deemed Marine Licence (DML)			
Draft DCO - Part 4 Supplemental Powers (20(2) Public rights of navigation	MMO notes that the public rights of navigation where any permanent structures are located within territorial waters will be extinguished and will take effect 14 days after the undertaker has submitted a plan to the SoS, Martine Coastguard Agency and the MMO.	MMO requests clarity on this as there are no powers under the DCO for the MMO to comment or refuse.  DL6: The Applicant explained why this is included.	The MMO is content this has been resolved.
Draft DCO – Schedules 11 & 12 – Additional Conditions	MMO requests additional conditions to be included in the DML such as Marine noise registry conditions (MNR).	MMO requests additional conditions are included within the DMLs.  The Applicant has taken this request to discuss internally.  DL6: Some conditions were updated by the Applicant such as MNR.	This issue has been resolved.
Benthic Ecology			
Concerns over the production of chalk arisings from	Clarification is required on Commitment C-305 to ensure that excavated chalk is only used to infill trenches left by	Commitment C-305 to ensure that excavated chalk is only used to infill trenches left by mechanical cutters in	This issue is still outstanding. However, the MMO believes that this can be discussed through the

<p>mechanical cutting and the infilling of trenches with chalk</p>	<p>mechanical cutters in areas of chalk seabed. Avoidance of subtidal chalk and reef features should remain the priority.</p> <p>The total volume anticipated for disposal as a result of drilled arisings, trenching burying and ground clearance should also be included in Table B-1 of the Outline Offshore Operations and Maintenance Plan</p> <p>DL6: The MMO notes that the Applicant has added an additional commitment C-300 to the Outline Scour Protection and Cable Protection Plan, which commits to cable protection with the minimum practicable environmental impact. However, the Outline Scour Protection and Cable Protection Plan does not commit to any of the available choices, so it is not possible for the MMO to comment on how C-300 is met. The MMO is therefore not able to close this until a method is chosen.</p>	<p>areas of chalk seabed. Avoidance of subtidal chalk and reef features should remain the priority.</p>	<p>OSPCPP at post consent if the SoS is minded to approve.</p>
<p>Fish Ecology</p>			
<p>Appendix 8.3 Underwater noise study for sea bream disturbance, August 2023.</p>	<p>The MMO agrees that the use of proxy species may be suitable (use of the audiogram for red seabream as a proxy for black seabream in terms of hearing ability), but requires:</p> <p>c) seeks clarification on noise spectra.</p>	<p>DL6: The Applicant has specified in REP4-055 the proposed noise monitoring has the following specific aims:</p> <p>to show that the noise level predictions made are appropriate and that the impacts predicted within the</p>	<p>The MMO can confirm this issue is resolved.</p>

	<p>The MMO has no further comments at this point but hope to see the Applicant follow these specific aims in their monitoring (during construction) which will be reviewed by the MMO post-consent.</p>	<p>Environmental Statement are valid;</p> <ul style="list-style-type: none"> <li>to validate the mitigation measures in terms of effectiveness;</li> <li>to validate mitigation zones implemented during piling; and</li> <li>to validate compliance with the specified noise threshold proposed for black seabream at the Kingmere Marine Conservation Zone site, should one be implemented.</li> </ul>	
Dredge and Disposal			
Trace heavy metal analysis	<p>The MMO has not been able to determine the method of extraction and what digest or if sieving has been applied to these sediments. Therefore, we have been unable to say whether the comparison to Cefas action levels is appropriate.</p>	<p>The MMO recommends that this is confirmed alongside the name of the laboratory undertaking the analysis for trace heavy metals and Polyaromatic Hydrocarbons.</p>	<p>This has been resolved.</p>